

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
In re:

Chapter 7  
Case No.: 22-40860

ERIKA LUCASSI,

Debtor

-----X  
MANHASSET DENTAL P.C.,

Adv. Pro. No.:

Plaintiff

against

ERIKA LUCASSI,

Defendant

-----X

**COMPLAINT**

Manhasset Dental P.C. ("Dental") by and through its attorneys Berger, Fischhoff, Shumer, Wexler & Goodman, LLP, as and for its complaint against Erika Lucassi, the debtor and defendant herein ("Debtor and/or the Defendant"), alleges as follows:

**STATEMENT OF CASE**

1. This is an adversary proceeding commenced pursuant to 11 U.S.C. §523(a)(4), and Rule 7001(6) of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") seeking a determination that the debt due and owing to Dental from the Debtor is nondischargeable on the grounds that the Debtor committed embezzlement and larceny by taking the sum of approximately \$309,719.96 from Dental without permission or authority, and based upon the Debtor's guilty plea to grand larceny in the fourth degree pursuant to Penal Law §155.30 on November 7, 2019.

### **PARTIES**

2. Manhasset Dental P.C. is a corporation licensed under the laws of the State of New York, with offices located at 2110 Northern Boulevard, Manhasset, New York 11030.
3. The Debtor resides at 95-09 103<sup>rd</sup> Street, 1<sup>st</sup> Floor, Ozone Park, New York 11416.

### **JURISDICTION**

4. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §157(a), 28 U.S.C. §1344 and 28 U.S.C. §157(b)(1) and 28 U.S.C. §157(b)(2)(j).
5. Venue is properly placed in this Court pursuant to 28 U.S.C. §1409.
6. This is a core proceeding in accordance with 28 U.S.C. §157(b). To the extent any cause of action is determined not to be core, Plaintiff consents to the entry of final findings of fact, conclusions of law and final orders in accordance with Bankruptcy Rule 7008(a).

### **FACTS**

7. The Debtor filed a petition under Title 11 Chapter 7 of the United States Bankruptcy Code on April 26, 2022 (the "Petition Date").
8. On November 7, 2019 the Debtor plead guilty to the charge of grand larceny in the fourth degree pursuant to Penal Law §155.30.
9. On January 22, 2020, the Debtor was sentenced to five years probation and restitution in the amount of \$129,719.00. Annexed hereto as Exhibit "A" is a copy of the certificate of disposition. Said amount of restitution was pursuant to a confession of judgment executed by the Debtor on November 7, 2019 in favor of Dental at the time she entered the guilty plea of grand larceny (Annexed hereto as Exhibit "B" is copy of the confession of judgment).

10. The debt to Dental arose from the fact that the Debtor was employed by Dental from approximately January 2009 until 2019 as an office manager for Dental. As part of her duties, she had the authority to draft and issue checks that were drawn on Dental's checking account for legitimate expenses. From August 2013 through December 2017 the Debtor misappropriated for her own benefit the sum of \$309,719.96 from Dental without permission or authority to do so.

**AS AND FOR FIRST CAUSE OF ACTION (11 U.S.C. §523(A)(4))**

11. Plaintiff restates the allegations contained in Paragraphs "1" through "10".

12. Bankruptcy Code §523(a)(4) provides in relevant part, that:

"a discharge under section 727....of this title does not discharge an individual debtor from any debt....(4) for fraud or defalcation while acting in a fiduciary capacity, embezzlement or larceny."

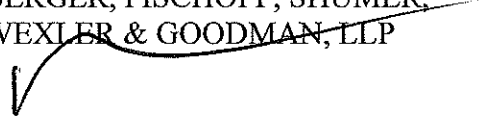
13. Defendant was convicted of committing larceny against Plaintiff by misappropriating funds of Dental for her own benefit.

14. Accordingly, Plaintiff is entitled to a determination that its claim against Defendant is nondischargeable pursuant to 11 U.S.C. §523(a)(4).

WHEREFORE, Plaintiff demands (a) judgment on Plaintiff's first cause of action determining that the debt due and owing to Plaintiff is not dischargeable in accordance with the 11 U.S.C. §523(a)(4); and (b) together with such other and further relief as to this Court appears fair and equitable.

Dated: Syosset, New York  
July 25, 2022

BERGER, FISCHOFF, SHUMER,  
WEXLER & GOODMAN, LLP



---

Heath S. Berger, Esq.  
6901 Jericho Turnpike, Suite 230  
Syosset, New York 11791  
(516) 747-1136